

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL SCHILLER, *et al.*,

Plaintiffs,

-v-

CITY OF NEW YORK, *et al.*,

Defendants.

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1-31-14

No. 04 Civ. 7922 (RJS)

ORDER


[DOCKET IN ALL RELATED
RNC CASES]

RICHARD J. SULLIVAN, District Judge:

The clerk of the court is respectfully directed to unseal and docket the six attached orders.

SO ORDERED.

DATED: January 31, 2014
New York, New York


RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

MICHAEL A. CARDOZO
Corporation Counsel

CHERYL L. SHAMMAS
Senior Counsel
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cshammas@law.nyc.gov

September 9, 2013

Via email (sullivanysdchambers@nysd.uscourts.gov)

The Honorable Richard J. Sullivan
United States District Judge
Southern District Court of New York
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Re: RNC Consolidated cases

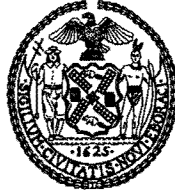
Your Honor:

Further to Your Honor's Order dated August 9, 2013, ordering that the parties to the RNC cases advise as to the status of any efforts to resolve these actions without further litigation, we submit the following joint letter.

The parties in the RNC Consolidated Litigation are making progress toward a final resolution of most of the cases and have agreed, in principle (subject to a few outstanding terms), to the following two major categories

- (a) The total amount awarded to the named and unnamed Class Plaintiffs (in all certified classes), as well as attorneys' fees, costs, expenses, and administrative fees to Class Counsel;
- (b) The total amount awarded to the 434 plaintiffs ("Grid Plaintiffs") who have brought individual cases, and attorneys fees, costs, and expenses to their counsel ("Grid Counsel");

Of the 434 Grid Plaintiffs identified in (b) above, 5 Grid plaintiffs have declined to accept the current offers, and plaintiffs' counsel has had some difficulty contacting, or getting responses back from, approximately 12 Grid Plaintiffs. Plaintiffs' counsel are hopeful that responses for



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October 10, 2013

Via email (sullivannysdchambers@nysd.uscourts.gov)

The Honorable Richard J. Sullivan
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Re: RNC Consolidated cases

Your Honor:

Further to Your Honor's Order that the parties to the RNC cases advise as to the status of the efforts to resolve these actions without further litigation, we submit the following joint letter.

As Your Honor may recall from our last communication with the Court, the parties had agreed, in principle, to a settlement (including costs and attorneys' fees) of the bulk of the RNC plaintiffs. Those included the entire Class Action, as well as an additional 434 Plaintiffs who commenced suit in their own name. Since the last update, it is now clear that all but four plaintiffs have agreed to the settlement terms. The four plaintiffs who have refused are Andrew St. Laurent, Steve Ekberg, Robert Siegel and Howard Gale, who were all arrested at Church and Fulton Streets and all are plaintiffs in the Abdell case. Judge Francis ordered these plaintiffs to appear before him for ex-parte conferences, and following those conferences, the positions of those four plaintiffs remain unchanged.

Judge Francis has scheduled a settlement conference for October 16, 2013 to discuss the next steps. In addition, as we previously advised the Court, there still remain the 12 outlier/not-included plaintiffs whose cases are not currently part of the settlement discussed above. In addition to meeting with Judge Francis regarding the 4 non-accepters in Abdell, the City intends to engage in settlement discussions with the 12 other outstanding plaintiffs now that there is clarity on the larger settlement.

Hon. Richard J. Sullivan
October 9, 2013
Page 2 of 2

The parties agree that we have made significant progress in trying to resolve the RNC litigation, and respectfully request additional time to complete that objective.

Consistent with our prior update on settlement discussions, the parties request that this letter not be docketed at this time.

Respectfully submitted,

_____/s_____

Cheryl L. Shammass
Senior Counsel

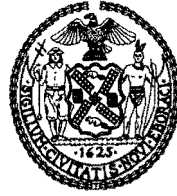
Cc.: The Honorable James C. Francis, IV (*via* email)
RNC Counsel (*via* email distribution list)

IT IS HEREBY ORDERED THAT the parties shall submit a joint letter no later than November 8, 2013 advising the Court of the updated status of any efforts to resolve these actions without further litigation.

SO ORDERED
Dated:

10/9/13


RICHARD J. SULLIVAN
U.S.D.J.



MICHAEL A. CARDOZO
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
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CHERYL L. SHAMMAS
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November 8, 2013

Via email (sullivanysdchambers@nysd.uscourts.gov)
The Honorable Richard J. Sullivan
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Re: RNC Consolidated cases

Your Honor:

Further to Your Honor's Order that the parties to the RNC cases advise as to the status of the efforts to resolve these actions without further litigation, we submit the following joint letter.

As Your Honor may recall from our last communication with the Court, the parties had agreed, in principle, to a settlement (including costs and attorneys' fees) of the Class Action and 430 of the 434 RNC Grid Plaintiffs.¹ We are finalizing the Memorandum of Understanding as to these plaintiffs, and will be preparing the necessary settlement papers.

In addition to the plaintiffs identified above, there were 12 plaintiffs who were either "Outlier Plaintiffs" or plaintiffs who opted out of the MOU (the "Non-Included Plaintiffs"). We

¹ The four Non-Accepting Grid Plaintiffs (Andrew St. Laurent, Steve Ekberg, Robert Siegel and Howard Gale, arrestees at Church and Fulton Streets) have declined to settle their claims at this time, except as to attorneys' fees, costs and expenses incurred to date.

Hon. Richard J. Sullivan
November 8, 2013
Page 2 of 2

have since reached agreement with one of the Non-Included Plaintiffs, thereby leaving 11 Outliers/Non-Included Plaintiffs. Negotiations with these 11 plaintiffs have already begun or are ready to be commenced. The parties remain hopeful that these cases can be resolved without the necessity of further litigation, but may require the assistance of Magistrate Judge Francis in order to reach a mutually-agreeable settlement.

Consistent with our prior update on settlement discussions, the parties request that this letter not be docketed at this time.

Respectfully submitted,

_____/s_____

Cheryl L. Shammas
Senior Counsel

Cc.: The Honorable James C. Francis, IV (*via email*)
RNC Counsel (*via email distribution list*)

IT IS HEREBY ORDERED THAT the parties shall submit a joint letter no later than December 9, 2013 advising the Court of the updated status of any efforts to resolve these actions without further litigation. Thereafter, the Court shall set a motion schedule and trial dates for all remaining parties.

SO ORDERED
Dated:

11/8/13


RICHARD J. SULLIVAN
U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL SCHILLER, *et al.*,

Plaintiffs,

-v-

CITY OF NEW YORK, *et al.*,

Defendants.

No. 04 Civ. 7922 (RJS)
SEALED ORDER
[DOCKET IN ALL RELATED
RNC CASES]

RICHARD J. SULLIVAN, District Judge:

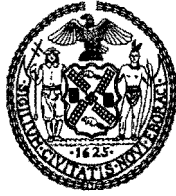
The Court is in receipt of the attached letter from the parties. The letter states that nearly all Plaintiffs are near a settlement and that the remaining Plaintiffs are still in negotiations. As such, the parties contemplate that stipulations of settlement will be submitted over an undisclosed period of time and that the remaining Plaintiffs will continue to discuss settlement for the foreseeable future. Needless to say, the Court applauds the parties' efforts at settlement in these complex and numerous cases. Nevertheless, in light of the age of this case, the Court must move forward. Accordingly, IT IS HEREBY ORDERED THAT, to the extent the parties have not resolved these actions, all remaining summary judgment motions in these related cases shall be submitted no later than January 31, 2014. Opposition briefs shall be submitted no later than February 28, 2014, and replies shall be submitted no later than March 14, 2014.

Because of the delicacy of the settlement negotiations, the Court shall keep this Order and the attached letter sealed. On January 31, 2014, however, the Court will unseal all previously sealed documents in this case, including this Order.

SO ORDERED.

DATED: December 10, 2014
New York, New York


RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

MICHAEL A. CARDOZO
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December 9, 2013

Via email (sullivannysdchambers@nysd.uscourts.gov)
The Honorable Richard J. Sullivan
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Re: RNC Consolidated cases

Your Honor:

Further to Your Honor's Order that the parties to the RNC cases advise as to the status of the efforts to resolve these actions without further litigation, we submit the following joint letter.

Since our last communication with the Court, the parties have reached agreement on the terms of the Memorandum of Understanding ("MOU"), and a fully-executed copy was circulated today to all RNC counsel. Accordingly, we will be filing Stipulations and Orders of Dismissal with the Court on a rolling basis as soon as the parties can confer, can finalize the stipulations, and provide some notice to the Court.

With respect to the 11 plaintiffs who are either Outlier Plaintiffs or Non-Included Plaintiffs, the parties continue to engage in settlement dialogue and remain hopeful that these cases can be resolved without the necessity of further litigation. The parties have already sought assistance from Judge Francis in one of these cases, and will do so in the future as warranted. Accordingly, we respectfully request additional time to resolve these 11 cases.

Consistent with our prior updates on settlement discussions, the parties request that this letter not be docketed at this time.

Hon. Richard J. Sullivan
December 9, 2013
Page 2 of 2

Respectfully submitted,

_____/s_____

Cheryl L. Shammass
Senior Counsel

Cc.: The Honorable James C. Francis, IV (*via* email)
RNC Counsel (*via* email distribution list)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -:
DEIRDRE MACNAMARA, et al., : 04 Civ. 9216 (RJS) (JCF)
individually, and on behalf :
of a class of all others :
similarly situated, :
:

Plaintiffs, :

SEALED ORDER

- against - :

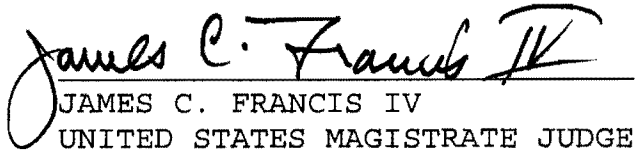
THE CITY OF NEW YORK, et al., :

Defendants. :

- - - - -:
JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

The parties having entered into a Memorandum of Understanding dated December 9, 2013, as a predicate to settlement of this class action and the related individual actions, it is hereby ORDERED that, by January 10, 2014, counsel submit to the Court a Proposed Notice to Class Members. In light of the delicacy of the settlement negotiations, this Order shall remain sealed until the Notice to Class Members is distributed.

SO ORDERED.


JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

Dated: New York, New York
December 20, 2013

Copies mailed this date:

Jonathan C. Moore, Esq.
Beldock Levine & Hoffman LLP
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Peter G. Farrell, Esq.
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Filed Under Seal

ROSE M. WEBER
ATTORNEY AT LAW
30 VESEY STREET • SUITE 1801
NEW YORK, NEW YORK 10007

FAX: (212) 226-4724

PHONE: (212) 748-3355

January 9, 2014

BY E-MAIL

Honorable Richard J. Sullivan
United States District Judge
500 Pearl Street
New York, NY 10007

MEMO ENDORSED

Re: *Consolidated RNC Cases*

Your Honor:

I write on behalf of the following counsel, representing the following plaintiffs who are not included in the "grid" settlements:

Rose Weber: Plaintiffs Valarie Kaur (*Botbol* case); Joshua Russell (*Garbini* case); Kate Freitag (*Bunim* case)

Andrea Ritchie: Plaintiff Kaitlyn Tikkun

Michael Spiegel, Rick Best and Susan Taylor: Plaintiff Kathleen O'Reilly

Jeffrey Fogel: Plaintiffs Brian Conley and Yusuke Banno

By Order dated December 10, 2013, the Court directed that all remaining summary judgment motions be submitted no later than January 31, 2014. We write, with defendants' consent, to request respectfully that the motion schedule be adjourned by sixty days, in hopes that the cases can be resolved without motion practice.

With one exception,¹ all of the cases are in settlement negotiations. As the Court is, of course, aware, incoming Mayor de Blasio has appointed Zachary Carter as the new

¹ Settlement discussions have stalled in regard to Valarie Kaur. I very much hope, however, that the discussions will resume once we have provided defendants with an expert report documenting Ms. Kaur's permanent disability and its causation.

Corporation Counsel. Mr. Carter has pledged to "uphold and protect the rights of New Yorkers in everything we do," and to be "mindful of an obligation to try and obtain a fair and just outcome" of each case, and we are hopeful that under the new administration, we will be able to resolve each and every one of the remaining RNC cases.

As we are all extremely busy solo and/or small-firm practitioners, it will be a real hardship for us to brief summary judgment motions, at the same time as we devote substantial time and energy to trying to get the cases settled. Accordingly, we respectfully request that the Court adopt the following motion schedule:

Moving papers by March 31, 2014

Opposition papers by April 30, 2014

Reply papers by May 14, 2014.

Thank you for your consideration in this matter.

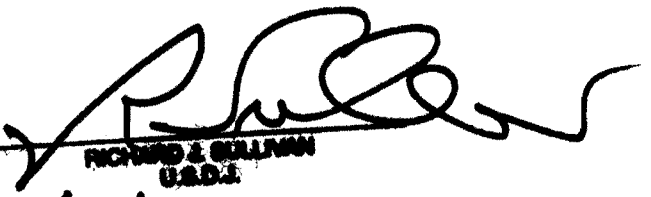
Respectfully,

/s

Rose M. Weber (RW 0515)

cc: RNC counsel (by e-mail)

IT IS HEREBY ORDERED THAT, for the Plaintiffs named above only, the deadline for summary judgment motions is adjourned, and the briefing schedule set forth above is adopted. Absent a showing of good cause, however, the Court will still unseal all previously sealed documents in this case on January 31, 2014.

SO ORDERED
Dated: 
1/9/14
RICHARD J. SULLIVAN
U.S.D.J.